

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05-11445DPW

ROBERT GRAY,

Plaintiff,

v.

TRANSPORTATION SECURITY
ADMINISTRATION, JAMES LOY IN HIS
CAPACITY AS SECRETARY OF THE
TRANSPORTATION SECURITY
ADMINISTRATION, DEPARTMENT OF
HOMELAND SECURITY, AND MICHAEL
CHERTOFF IN HIS CAPACITY AS SECRETARY OF
THE DEPARTMENT OF HOMELAND SECURITY

Defendant.

AFFIDAVIT OF ROBERT WILLIAM GEORGE MULRYNE GRAY

I, Robert William George Mulryne Gray, do hereby depose and state as follows:

1. My name is Robert William George Mulryne Gray and I am a permanent legal resident of the United States. I hold a British passport and live in West Yarmouth, Massachusetts.
2. I have lived in the United States since August 1993.
3. I have never engaged in or supported any terrorist or other illegal activity.
4. I have never had any involvement whatsoever with the criminal justice system.
5. On April 28, 2004, the Federal Bureau of Investigation generated a document in which it informed Defendant Transportation Security Administration ("TSA")

that I have never been arrested. A true and accurate copy of this document is attached hereto as Ex. A.

6. Since 1997, I have worked as a pilot for a number of domestic airlines, flying small commercial aircraft in the United States.
7. On May 2, 2005, my employer learned that TSA had placed the name “Robert Gray” on its “Selectee List,” i.e., the list of people whom the government subjects to certain forms of screening before permitting them to fly.
8. Upon learning of this designation, my employer contacted TSA and provided information concerning my identity (e.g., my social security number).
9. Shortly thereafter, TSA confirmed to my employer (a) that the “Robert Gray” on the Selectee List was not me and (b) that I was clear to continue to fly as a pilot. A true and accurate copy of a business record from my employer memorializing this confirmation from TSA is attached hereto as Exhibit B.
10. I filed a Verified Complaint in the above-captioned matter (“Complaint”) on July 8, 2005. On the same date, I filed a petition in the First Circuit, Gray v. TSA, Docket No. 05-2024 (“Petition”).
11. I commenced both of these matters to challenge TSA’s decision to deny me authorization to obtain training to fly larger aircraft – and, correlatively, to accept any position in the field of my choice – based upon (a) unspecified allegations from unidentified sources and (b) secret evidence that TSA has refused to disclose or even describe.

12. Upon information and belief, TSA placed my name on its "No-Fly List" on or about September 6, 2005.
13. Upon learning of the inclusion of my name on the No-Fly List, my employer informed me that the government will no longer permit me to fly as a pilot, board any aircraft as a passenger or enter certain areas of airports.
14. The No-Fly List is devastating to me in a number of ways:
 - (a) My employer has taken my badge and suspended me.
 - (b) Because the government will not permit me to fly a plane, I cannot earn a living as a pilot. I do not have any other professional or vocational training. Moreover, potential employers will be reluctant to hire a person whom the government has placed on a watch-list of suspected terrorists. For these reasons, I do not know how I will either earn a living or pay for my regular and ordinary expenses (including my rent, my consumer debt and the monthly amount due on the student loan that I took out in connection with my training as a pilot).
 - (c) My mother, who lives in Ireland, has been in continuous ill health for approximately five years. More than once in the past few years she has been hospitalized in an intensive care unit and has been on the brink of death. On those occasions, I have been required to fly to Ireland on extremely short notice. Unless my name is removed from the No-Fly List, there is a very real possibility that I will be unable to visit my mother on her deathbed.
 - (d) If I am unable to board a plane on October 25, 2005, I will be forced to cancel my honeymoon, which my fiancée and I were planning to spend in Europe.
 - (e) My reputation and standing within the airline industry have been substantially diminished.
 - (f) My reputation and standing within my community have been substantially diminished.

Signed under the penalties of perjury this 16th day of September 2005.


ROBERT WILLIAM GEORGE MULRYNE GRAY

I hereby certify that a true copy of the above document was served upon James Loy, the Transportation Security Administration, Michael Chertoff, the U.S. Department of Homeland Security, the Attorney General of the United States and the Office of the United States Attorney by next day mail on September 16, 2005.



Hugh Dun Rappaport

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FPRD Rapsheet Display
September 15 2005 06:36**COMPLETE****PRINT****Case Number:** ASCFP01414490**Date Printed:** 04/28/2004**Name:** GRAY, ROBERT**Civil Record
Number:** null**SSN:** 594379018**Date of Birth:** 08/15/1970**Attention:** HAS

CIVIL APPLICANT RESPONSE

ICN IFCS0004000033639572 CIDN OCA ASCFP01414490
GRAY, ROBERT WILLIAM W 504 1970/08/15
MNU SOC 594 37 9018 SEX M
FPC
HENRY CLASS API

USTSA0NFZ TSA-NON FED DATE FP
ARLINGTON VA 2004/04/28

A SEARCH OF THE FINGERPRINTS ON THE ABOVE
INDIVIDUAL HAS FAILED TO DISCLOSE PRIOR ARREST
DATA. CJIS DIVISION
2004/04/29 FEDERAL BUREAU OF INVESTIGATION

FBI RAP Sheet

USTSA0NFZ
TRANSPORTATION SEC ADMIN
NON FEDERAL PROGRAM
MAIL STOP 673 NORTH
701 S 12TH ST
ARLINGTON, VA 22202-4204



660 Barnstable Road
Barnstable Municipal Airport
North Ramp
Hyannis, Massachusetts 02601
508-790-3122
508-778-1870 FAX
Reservations (800) 352-0714
(800) 635-8787

To Whom It May Concern:

In accordance with Title 49 Code of Federal Regulations Part 1544, U.S. Aircraft Operators are obligated to routinely compare employee names to those on the Transportation Security Administration (TSA)-issued No-Fly and Selectee name lists.

On May 2, 2005, it came to the attention of Cape Air that employee Robert Gray was a similar match to an individual listed on the TSA Selectee name list.

As required per 49 CFR Part 1544, Cape Air reported this potential match to Transportation Security Intelligence Services (TSIS). Upon immediate request, Cape Air furnished the TSIS with personal information about Cape Air employee Robert Gray, such as full name, date of birth, social security number, place of residence, etc.

The TSIS concluded during that conversation on May 2, 2005, that the employee Robert Gray was not the same person as listed on the TSA Selectee name list, and Cape Air was informed that employee Robert Gray was clear to continue to fly as a pilot.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence Gualtieri".

Lawrence Gualtieri
Vice President of Operations
Cape Air/Nantucket Airlines

9/14/05

Date

A handwritten signature in black ink, appearing to read "Melanie Oswald Gradsky".

Melanie Oswald Gradsky
Airline Security Manager
Cape Air/Nantucket Airlines

9/14/05

Date